

STATE OF TENNESSEE, ex rel. ROBERT E. COOPER, JR., Attorney General & Reporter,)))
Plaintiff,)
v.) 07C-3365-III)
EXPYFI, LLC, a Georgia limited liability)
company, doing business as www.expyfi.com,)
CREDITMAX FINANCIAL, LLC, a Georgia)
limited liability company, CREDIT PHD., INC.,)
a Georgia nonprofit corporation, and)
ANTHONY "TONY" IRVING THOMAS aka)
ANTHONY J. THOMPSON, individually)
and doing business as EXPYFI, LLC,)
CREDITMAX FINANCIAL, LLC,)
CREDIT PHD., INC., and www.expyfi.com,)
)
Defendants.)

ORDER GRANTING STATUTORY TEMPORARY INJUNCTION

The State's Motion for Statutory Temporary Injunction came to be heard on ______, 2007. Based upon the arguments of the parties, the State's Complaint and Exhibit, the State's Motion for Statutory Temporary Injunction and attached Exhibits attached to the State's, the State's Memorandum in Support of the State's Motion for Statutory Temporary Injunction, and the record herein, the Court finds that the State's Motion for Statutory Temporary Injunction should be GRANTED.

The Court finds as follows:

- 1. This Court has jurisdiction of the subject matter of this case and the parties pursuant to Tenn. Code Ann. § 47-18-108. Venue is proper in Davidson County pursuant to Tenn. Code Ann. § 47-18-108(a)(3), because it is the county where the conduct alleged in the complaint took place and continues to take place.
- The Court concurs that the proper standard for a statutory temporary injunction is 2. the one applied in *State v. Froehlig*, No. 33293 at 2, Ch. Ct. Of Tenn., 21st Jud. Dist. Williamson County (Mar. 2, 2007); State v. Olomoshua, No. 06C2912, at 2, Cir. Ct. of Tenn., 20th Jud. Dist, Davidson County, Part III (Nov. 14, 2006); Tennessee Real Estate Comm'n v. Hamilton, No. 96-3330-III, at 6, Ch. Ct. of Tenn., 20th Jud. Dist., Davidson County, Part III (Dec. 1996), aff'd. No. 01A01-9707-CH-00320, 1998 WL 272788 at *4-6 (Tenn. Ct. App. May 22, 1998); FTC v. Nat'l Testing Servs., LLC, No. 3:05-0613, 2005 WL 2000634 (M.D. Tenn. Aug. 18, 2005); Microsoft Corp. v. Action Software, 136 F.Supp. 2d 735, 738-39 (N.D. Ohio 2001); see also The Virginia Beach SPCA, Inc. v. South Hampton Roads Veterinary Ass'n., 329 S.E.2d 10, 13 (Va. 1985); SEC v. Management Dynamics, Inc., 515 F.2d 801, 808 (2nd Cir. 1975); FTC v. World Wide Factors, 882 F.2d 344, 346 (9th Cir. 1989); FTC v. World Travel Vacation Brokers, Inc., 861 F.2d 1020, 1029 (7th Cir. 1988). Pursuant to Tennessee Real Estate Commission and National Testing Services, the movant's burden for a statutory temporary injunction is met upon a demonstration of a likelihood of success of demonstrating at trial that the non-movants are violating the statute. A showing of immediate and irreparable harm is assumed with the violation of a statute. Proof of immediate and irreparable harm or the inadequacy of other remedies is not required for a statutory injunction.

- 3. The Court concurs that it is likely that the State will succeed on the merits of this action in showing that Defendants have violated the Tennessee Credit Services Business Act, Tenn. Code Ann. § 47-18-1001 ct seq. ("TCSBA") through Defendants' conduct as detailed in the State's Complaint and Exhibit, the State's Motion for Statutory Temporary Injunction and attached Exhibits, and the Supporting Memorandum. The Court specifically finds that Defendants have operated a credit services business in the State of Tennessee without posting the bond required by the TCSBA with the Tennessee Division of Consumer Affairs of the Department of Commerce and Insurance. This Court finds that Defendants have engaged in trade or commerce in Tennessee offering "credit services business" which means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform any of the following services in return for the payment of money or other valuable consideration:
 - (i) improving a consumer's credit record, history, or rating;
 - (ii) obtaining an extension of credit for a consumer; or
 - (iii) providing advice or assistance to a consumer with regard to (i) or (ii).
- 4. The Court concurs that it is likely that the State will succeed on the merits of this action in showing that Defendants have violated the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 et seq. ("TCPA" or "Consumer Act") through Defendants' conduct as detailed in the State's Complaint and Exhibit, the State's Motion for Statutory Temporary Injunction and attached Exhibits, and the Supporting Memorandum.
- 5. No bond is required of the State of Tennessee for the issuance of this statutory preliminary injunction pursuant to Tenn. Code Ann. § 47-18-108(a)(4).

DEFINITIONS

- 6. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following words or terms have the following meanings as used and applied in this Order:
 - (A) "consumer" shall mean any person, a natural person, individual, governmental agency or other entities, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized and wherever situated.
 - (B) "credit services business" means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform any of the following services in return for the payment of money or other valuable consideration:
 - (i) Improving a consumer's credit record, history, or rating;
 - (ii) Obtaining an extension of credit for a consumer; or
 - (iii) Providing advice or assistance to a consumer with regard to (i) or (ii).
 - (C) "Defendants" shall mean ExpyFi, LLC, a Georgia limited liability company, doing business as www.expyfi.com; Creditmax Financial, LLC, a Georgia limited liability company; Credit Phd., Inc., a Georgia nonprofit corporation; Anthony "Tony" Irving Thomas aka Anthony J. Thompson, individually and doing business as ExpyFi, LLC, Creditmax Financial, LLC, Credit Phd., Inc., and www.expyfi.com; and each of their officers, directors, partners, subsidiaries, affiliates, managers, parents, related entities, successors, agents, representatives, sales staff, employees, agents, successors and assigns, and other persons in concert or participation with ExpyFi, LLC, Creditmax Financial, LLC, Credit Phd., Inc., and Anthony "Tony" Irving Thomas Aka Anthony J. Thompson.
 - (D) "Document" is equal in scope and synonymous in meaning to the usage of the term in Tennessee Rule of Civil Procedure 34, and includes writings, drawings, charts, graphs, photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained. Documents which are computer records should be provided in their native format.
 - (E) "Tennessee Credit Services Businesses Act" or "TCSBA" shall mean Tenn. Code Ann. § 47-18-1001 *et seq*. and as may be amended from time to time and any rules and regulations promulgated thereunder.
 - (F) "Order" shall refer to this Statutory Temporary Injunction Order.

- (G) "Tennessee Consumer Protection Act of 1977," "TCPA," or "Consumer Act" shall mean Tenn. Code Ann. § 47-18-101 *et seq.* and as may be amended from time to time.
- (H) "Trade," "commerce," or "consumer transaction" means the advertising, offering for sale, lease or rental or distribution of any goods, services, or property, tangible or intangible, real, personal, or mixed, and other articles, commodities, or things of value wherever situated, as defined in Tenn. Code Ann. § 47-18-103(11).

TEMPORARY INJUNCTION: PROHIBITIONS AND AFFIRMATIVE REQUIREMENTS OF DEFENDANTS

7. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that

Defendants ExpyFi, LLC, a Georgia limited liability company, doing business as www.expyfi.com; Creditmax Financial, LLC, a Georgia limited liability company; Credit Phd., Inc., a Georgia nonprofit corporation; and Anthony "Tony" Irving Thomas Aka Anthony J. Thompson, individually and doing business as ExpyFi, LLC, Creditmax Financial, LLC, Credit Phd., Inc., and www.expyfi.com (collectively referred to as "Defendants") and each of their officers, directors, partners, subsidiaries, affiliates, managers, parents, related entities, successors, agents, representatives, sales staff, employees, agents, successors and assigns, and other persons in active concert or participation with Defendants who receive actual notice of this Temporary Injunction Order are enjoined from engaging, directly or indirectly, in any acts which are unlawful and further require Defendants to satisfy the affirmative requirements in the State's Complaint and Motion, including but not limited to, the following:

(A) Defendants shall be strictly prohibited from soliciting, providing, advertising, promoting, or conducting seminars or presentations of any type in person, via the Internet or telephone, or otherwise offering, in any manner, the services of a credit services business within this state, without first registering a bond fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011;

- (B) Defendants shall be strictly prohibited from selling, providing, performing or representing, to any person that they can or will sell, provide, or perform any of the following services in return for payment of money or other valuable consideration: (i) improving a consumer's credit record, history, or rating; (ii) obtaining an extension of credit for a consumer; or (iii) providing advice of assistance to a consumer with regard to either (i) or (ii).
- (C) Defendants shall be strictly prohibited from charging or receiving any money or other valuable consideration prior to full and complete performance of the services that Defendants have agreed to perform for or on behalf of the consumer, including all representations made orally or in writing. "Full and complete performance" means fulfillment of all items listed in the contract and other solicitations or communications to consumers;
- (D) Defendants shall be strictly prohibited from enforcing any contract or other agreement for services signed by Tennessee consumers that were entered into during the period in which Defendants did not have a bond posted with the State fully consistent with the provisions of Tenn. Code Ann. § 47-18-1011 and that do not fully comply with all provisions of the Tennessee Credit Services Businesses Act, Tenn. Code Ann. § 47-18-1001 et seq.;
- (E) Defendants shall fully comply with the Tennessee Credit Services Businesses Act, Tenn. Code Ann. § 47-18-1001 *et seq.*; and
- (F) Defendants shall timely and fully comply and cooperate with the Attorney General's Office when information is sought pursuant to state law, regulation or rule.
- 8. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants shall turn over and/or provide all consumer records and files and documents of Defendants relating to Tennessee consumers or any consumers who attended a seminar or presentation held in the State of Tennessee to Jennifer E. Peacock, Assistant Attorney General, by delivering the files and/or documents during regular business hours between 8:00 a.m. and 4:30 p.m. (Central) to the Consumer Advocate and Protection Division, Tennessee Attorney General's Office, 425 Fifth Avenue North, Nashville, Tennessee 37243 by no later than five (5) days following entry of this

Order. These records shall be treated as confidential and afforded all protections to protect the privacy of consumers in credit related records.

9. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants shall provide the Court with a detailed accounting of all assets in Defendants' possession relating to Defendants' businesses and a list of all bank accounts, bank addresses, bank telephone numbers and bank contact names, bank account numbers, and the amounts currently held in those accounts and held since the date Defendants commenced trade or commerce in the state of Tennessee as of the date of the Court's Order by no later than five (5) days after entry of this Order. Said accounting shall be provided along with a sworn affidavit of an officer of each of the Defendants confirming their accuracy and completeness and shall be filed with the Court and a copy(ies) shall be provided in the same time frame to Jennifer E. Peacock, Assistant Attorney General, Consumer Advocate and Protection Division, Attorney General's Office, 425 Fifth Avenue North, Nashville, TN 37243.

FULL FORCE & EFFECT

- 10. **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that this

 Temporary Injunction Order shall remain in full force and effect until completion of a trial on the merits unless otherwise expressly ordered by this Court.
- 11. **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendants ExpyFi, LLC, a Georgia limited liability company, doing business as www.expyfi.com; Creditmax Financial, LLC, a Georgia limited liability company; Credit Phd., Inc., a Georgia nonprofit corporation; and Anthony "Tony" Irving Thomas Aka Anthony J. Thompson,

individually and doing business as ExpyFi, LLC, Creditmax Financial, LLC, Credit Phd., Inc., and www.expyfi.com, shall provide notice of this Order to each of their officers, directors, partners, subsidiaries, affiliates, managers, parents, related entities, successors, agents, representatives, sales staff, employees, agents, successors and assigns, and other persons in active concert or participation with Defendants who receive actual or constructive notice of this Temporary Injunction Order on the day of entry of this Order.

COURT COSTS

12. Defendants shall jointly and severally pay and be liable for all court costs associated with this Temporary Injunction Order. No costs shall be taxed to the State as provided by Tenn. Code Ann. §§ 47-18-108(a)(4) and 47-18-116.

ATTORNEYS' FEES

13. The Court expressly reserves Defendants payment of attorneys' fees and costs to the State of Tennessee for a future hearing.

SO ORDERED, this	day of November, 2007, at	m.
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Davidson County Circuit Court Division III

SUBMITTED BY:

ROBERT E. COOPER, JR. Attorney General & Reporter B.P.R. No. 010934

JENNIFER E. PEACOCK

Assistant Attorney General

B.P.R. No. 022227

Office of the Tennessee Attorney General

Consumer Advocate & Protection Division

Post Office Box 20207

Nashville, TN 37202-0207

Telephone: (615) 741-3108

Facsimile: (615) 532-2910